



Paper No. 12

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Da-Hai Ding
Application No. 09/418,161
Filed: October 13, 1999
Attorney Docket Number: BA0446C(NORT10-00386)

This is a corrected decision on the petition under 37 CFR 1.137(b),¹ filed February 2, 2004, to revive the above identified application. The decision mailed February 11, 2004 is hereby **vacated**.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 3, 2002. A shortened statutory period of three months was set for replying to the non-Final Office Action. Accordingly, a Notice of Abandonment was mailed October 21, 2003.

A review of the file reveals that with the petition filed February 2, 2002, a continuation application was filed in response to the non-Final Office Action mailed December 3, 2002.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuing application filed February 2, 2004, pursuant to the provisions of 37 CFR 1.53(b).

This application is being forwarded to Technology Center 3713 and the continuing application filed February 2, 2004 has been sent to the Office of Initial Patent Examination for processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).